

double patenting has been overcome, the issues for appeal have been simplified. Accordingly, please consider the following remarks:

## **REMARKS**

### **A. Objections to Claims**

In the Office Action mailed on April 29, 2004, claims 1 and 19 were objected to for failing to clarify that the beam of radiation was a beam of penetrating radiation. Applicant traverses the objection for the reasons given in Applicant's Amendment filed on June 29, 2004, the entire contents of which are incorporated herein by reference. The June 29<sup>th</sup> Amendment was entered as indicated by the Advisory Action. The June 29<sup>th</sup> Amendment amended claims 1 and 19 along with dependent claims 2, 7, 10 and 20-22 by replacing "beam of radiation" with "beam of penetrating radiation" as suggested by the Office Action. In view of the lack of remarks in the Advisory Action regarding the amendments, Applicant will take that the position that the objection has been overcome and withdrawn.

### **B. Obviousness-Type Double Patenting**

Claims 1-17 and 19-25 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being obvious in view of claims 1-24 of the '498 application. Applicant traverses this rejection for the reasons given in Applicant's Amendment filed on June 29, 2004, the entire contents of which are incorporated herein by reference.

Despite the impropriety of the rejection, Applicant is filing a Terminal Disclaimer

concurrently with the present Response. Accordingly, the rejection has been overcome and should be withdrawn. In addition, since claims 1-25 have not been rejected based on the prior art, they should be allowed.

### **CONCLUSION**

In view of the arguments above, Applicant respectfully submits that all of the pending claims 1-25 are in condition for allowance and seeks an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, she is respectfully requested to contact the undersigned attorneys at (312) 321-4200.

Respectfully submitted,



John C. Freeman  
Registration No. 34,483  
Attorney for Applicant

BRINKS HOFER  
GILSON & LIONE  
P.O. Box 10395  
Chicago, Illinois 60610  
(312) 321-4200

Dated: September 29, 2004